IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 6131 of 2005

Between:

V. Sudhamaya, E. 112427, Conductor. Narayakhed Depot, S/o. Butchaiah, R/o. Narayankhed, Medak District.

..... PETITIONER

AND

1. The APSRTC, Rep. by its Regional Manager, Medak Region at Medak.
2. The APSRTC, Rep. by its Depot Manager, Narayankhed, Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents herein in imposing the punishment of deferment of annual increment for a period of 2 years with cumulative effect without holding any departmental enquiry vide Proc.No. P2/1(153)/96-NKD, Narayankhed, dt. 30-4-1999, as illegal, unjust, contrary to well established principles of law and as such liable to be set aside by further directing the respondents to refix the pay of the petitioner by adding the deffered increments w.e.f. 30-4-1999 and to pay the arrears forthwith.

Counsel for the Petitioner:MR.S.M.SUBHAN

Counsel for the Respondent Nos.1 and 2: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the admission stage made the following O R D E R:

The petitioner was appointed as a Conductor in the respondent-Corporation. While so, the respondent-Corporation issued charge sheet dated 04.11.1996. After receiving explanation of the petitioner, final orders were passed on 30.04.1999 imposing the punishment of withholding increments for a period of two years with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of two annual increments, with cumulative effect is a major penalty and the second respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the impugned order is illegal and it is liable to be set aside.

Learned counsel for the petitioner relied on a Judgment of the Supreme Court in **Kulwant Singh Gill v. Sate of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of six years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, but in view of the judgment of the Supreme Court in Kulwant Singh Gill's case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two annual increments without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of two annual increments without cumulative effect.

The writ petition is accordingly disposed of with the above observation. No costs.

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(K.C.BHANU,J)

Dt:24.03.2005

usd

To

1. The Regional Manager, APSRTC, Medak Region at Medak.
2. The Depot Manager, APSRTC, Narayankhed, Medak District.
3. Two CD copies.